



DETERMINATION OF MERGER NOTIFICATION M/20/015 – PORTLON/BLACKROCK (TULLYCORBETT/XROON)

Section 21 of the Competition Act 2002

Proposed acquisition of sole control of Blackrock Hospital Limited by the Portlon Trust.

Dated 29 July 2020

Introduction

1. On 14 April 2020, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition, whereby the Portlon Trust, through its subsidiary Parma Investments Limited (“Parma”) and its majority-owned subsidiary Breccia Unlimited Company (“Breccia”), would acquire the shareholdings of each of Tullycorbett Limited (“Tullycorbett”) and Xroon Limited (“Xroon”) in, and thus sole control of, Blackrock Hospital Limited (“BHL”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement dated 6 April 2020, between Breccia, Tullycorbett, Xroon, Rosaleen Duffy and George Duffy,¹ whereby Breccia would purchase Tullycorbett and Xroon’s 13% shareholding in BHL. Tullycorbett is the registered and beneficial owner of 8% of the issued share capital of BHL, and is the registered owner of a further 5% of the issued share capital of BHL in respect of which Xroon is the beneficial owner. The parties have informed the Commission that Parma holds and acquires assets as nominee for the Portlon Trust and its subsidiaries, including Breccia in respect of the Proposed Transaction.

¹ Rosaleen Duffy and George Duffy act as guarantors.



3. At the date of the notification, Parma held [...]% of the issued share capital of BHL. At the date of this determination, the Commission understands that Parma holds [...]% of the issued share capital of BHL. The parties informed the Commission that Parma (through its affiliate Breccia) acquired a shareholding of [...]% from Dornway Limited (“Dornway”) on 3 April 2020. The parties informed the Commission that the acquisition of Dornway’s shareholding did not result in a change of control in BHL. The parties informed the Commission that none of the shareholders of BHL – including the Portlon Trust/Parma – has the right to cast a majority of votes at meetings of the board of directors of BHL and so ultimately there is floating control by the board of directors of BHL. Following the implementation of the Proposed Transaction, the Portlon Trust, through Parma, will hold [...]% of the issued share capital of BHL and will therefore exercise sole control over BHL.
4. Separately to the notification of the Proposed Transaction, on 19 March 2020, a proposed acquisition whereby the Portlon Trust would acquire from Mr Damien Murrin of RSM, in his capacity as receiver over certain assets of Dr Joseph Sheehan, Dr Joseph Sheehan’s [...]% shareholding in BHL, was notified to the Commission (the “First Blackrock Acquisition”). Following implementation of the First Blackrock Acquisition, the Portlon Trust, through Parma, would exercise sole control over BHL. The parties informed the Commission that the First Blackrock Acquisition is not conditional on the implementation of the Proposed Transaction and is therefore legally separate from the Proposed Transaction.
5. Accordingly, the Commission understands that the Portlon Trust, through Parma, would exercise sole control over BHL as a result of the implementation of either or both of the Proposed Transaction or the First Blackrock Acquisition. If both the First Blackrock Acquisition and the Proposed Transaction were to be implemented, the Portlon Trust, through Parma would hold a [...]% shareholding in BHL. The remaining [...]% shareholding in BHL would continue to be owned by Mrs Rosaleen Duffy.²

² Parma entered into a [...].



The Undertakings Involved

The Acquirer - the Portlon Trust & Parma

6. The Portlon Trust is a private trust that was settled by Mr Laurence J. Goodman for the benefit of his family. The Portlon Trust primarily focuses on making investments in the beef and lamb procurement and processing sectors worldwide, and also has investments in business areas such as real estate, agriculture, renewable energy and private healthcare services.
7. Parma is ultimately owned and controlled by the Portlon Trust. Parma holds and acquires assets as a nominee shareholder for the Portlon Trust and/or its subsidiaries. The parties submitted to the Commission the following list of companies owned and controlled (directly and indirectly) by the Portlon Trust, which generated turnover in the State in 2018 and 2019 (the “Portlon Trust Portfolio Companies”):

| Table 1: Portlon Trust Portfolio Companies | |
|---|---|
| Portfolio Company | Business Activity |
| [...] | Beef processing and supply, renewable energy and manufacture and supply of pet food. |
| [...] | Investment holding company. The company holds an investment in BHL and Hermitage Clinic Limited (“HCL”) and derives dividend income from this investment. |
| [...] | Provision of agricultural project management and administrative services. The company also holds an investment in BHL and derives dividend income from this investment. |
| [...] | Rental income from investment property held. |
| [...] | Rental income from investment properties held. |
| [...] | Provision of hangar and air transportation services. |
| [...] | Trading in quoted stocks and securities. |
| [...] | Rental income from investment properties held. |
| [...] | Construction and sale of residential properties. |
| [...] | The company holds investments in Marpole Limited (“Marpole”) and HCL. |
| [...] | The company holds an investment in Marpole. |
| [...] | The company holds an investment in HCL. |
| Source: the parties | |

8. The Portlon Trust owns Marpole, which is responsible for the operation and management of Galway Clinic, Doughiska, County Galway (the “Galway Clinic”). The



Galway Clinic is a private healthcare provider active in the provision of a range of private healthcare services, including in-patient, day-care and out-patient healthcare services, and pathology and laboratory testing services. The Galway Clinic has 146 beds and 8 operating theatres located at its main premises in Doughiska, County Galway. It also operates an 'outreach' clinic in Raheen, County Limerick which comprises consultant suites and radiology services, including MRI scanning, and is used by consultants attached to the Galway Clinic to hold consultations with patients based in the Limerick area. The treatment of these patients takes place at the main Galway Clinic, however.

9. The Portlon Trust, through Parma, currently holds [...]% of the issued share capital of Torcross Limited ("Torcross"), Hermitage Medical Developments Limited ("HMDL") and HCL. HCL is responsible for the operation and management of Hermitage Medical Clinic located at Old Lucan Road, Fonthill, Dublin (the "Hermitage Clinic"). Torcross is the entity that holds the interests in the land on which the Hermitage Clinic was constructed and is the holding company for a group of companies that includes HCL and HMDL. HMDL was incorporated as the entity responsible for overseeing the construction of the Hermitage Clinic. Neither Torcross nor HMDL generate any separate group turnover, other than the turnover that is generated from HCL. The parties state in the notification that the Portlon Trust's current shareholdings in HCL does not enable it to exercise either sole or joint control of those entities for the purpose of section 16 of the Act.
10. Additionally, the Portlon Trust, through Parma, holds a [...]% shareholding in BHL,³ which is the parent company of, and holds [...]% of the shares in, Blackrock Clinic Limited ("BCL"), which is the operating entity of Blackrock Clinic, Blackrock, County Dublin (the "Blackrock Clinic"). The parties state in the notification that the Portlon Trust's current shareholding in BHL does not enable it to exercise either sole or joint control of BHL for the purpose of section 16 of the Act.
11. Table 2 below sets out the Portlon Trust's current shareholdings in companies providing healthcare services in the State.

³ As noted at paragraph 3 above, Parma held [...]% of the issued share capital of BHL at the time of the notification, and subsequently increased its shareholding in BHL to [...]%. The parties informed the Commission that Parma (through its affiliate Breccia) acquired a shareholding of [...]% from Dornway Limited ("Dornway") on 3 April 2020. The parties informed the Commission that the acquisition of Dornway's shareholding did not result in a change of control in BHL ([...]).



| Table 2: The Portlon Trust's current shareholdings in companies providing healthcare services active in the State | | |
|--|-------------------------------------|-----------------|
| Company Name | Portlon Trust's Shareholding | Location |
| BHL | [...]% | Dublin |
| HCL | [...]% | Dublin |
| Marpole | 100% | Galway |
| Source: the parties | | |

12. Separately to the notification of the Proposed Transaction, on 19 March 2020 the Commission received a notification of a proposed transaction, whereby the Portlon Trust, through Parma, would acquire the entire issued share capital, and thus sole control, of each of HCL, HMDL and Torcross from Xroon and Ballymore Ireland Group Limited in accordance with section 18(1)(a) of the Act (the “Hermitage Acquisition”).⁴Therefore, the Commission’s analysis of the competitive effects of the Proposed Transaction takes into account the possibility that the Portlon Trust would exercise sole control of HCL as a result of the implementation of the Hermitage Acquisition.⁵
13. For the financial year ending 31 March 2019, the Portlon Trust’s worldwide turnover (including Parma’s turnover) was approximately €[...] billion, of which approximately €[...] billion was generated in the State.

BHL

14. BHL is active in the provision of a range of private healthcare services including in-patient, day-care and out-patient healthcare services. The current shareholders of BHL are Parma ([...]%),⁶ Dr Joseph Sheehan ([...]%), Tullycorbett ([...]%), Xroon ([...]%) and Mrs Rosaleen Duffy ([...]%).

⁴ M/20/009 – Portlon (Parma)/Hermitage was notified to the Commission on 19 March 2020.

⁵ In the particular circumstances of the Proposed Transaction, the Hermitage Acquisition and the First Blackrock Acquisition, the Commission did not consider it necessary to apply a priority principle whereby the first notified transaction (the Hermitage Acquisition) would be reviewed independently of the transactions which were notified subsequently (the Proposed Transaction and the First Blackrock Acquisition). The European Commission has previously applied a priority principle in reviewing notified mergers (e.g., M.6214 *Seagate Technology/The HDD Business of Samsung Electronics* (19 October 2011) and M.6203 *Western Digital Ireland/Viviti Technologies* (23 November 2011)).

⁶ Through Breccia and IADC.



15. BHL, through BCL, is responsible for the management and operation of the Blackrock Clinic, a 168-bed private clinic, associated with the Royal College of Surgeons in Ireland and University College Dublin. It is a private high-tech hospital offering healthcare to private patients. It is active in the provision of a broad range of private hospital services, including in-patient, day-care and out-patient healthcare services, and pathology and laboratory testing services.
16. For the financial year ending 31 December 2019, BHL's worldwide turnover was approximately €[...]million, all of which was generated in the State.

Rationale for the Proposed Transaction

17. The parties state:

“The commercial objectives of the Portlon/Parma Group in relation to the Proposed Transaction is to increase its shareholding in private hospitals in which it has an existing investment with a view to investing in such hospitals to improve their service offerings.”

Contact with the Undertakings Involved

18. On 14 May 2020, the Commission served Requirements for Further Information (“RFI”) on each of the Portlon Trust/Parma and BHL, pursuant to section 20(2) of the Act. On 26 May 2020, the Commission served an additional RFI on the Portlon Trust/Parma. The service of these RFIs adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.
19. Upon receipt of full responses to all the RFIs from the Portlon Trust, Parma and BHL on 19 June 2020 (the “RFI Responses”), the “appropriate date” (as defined in section 19(6)(b)(i) of the Act) became 19 June 2020.⁷
20. During its investigation, the Commission requested and received, on an on-going basis, further information and clarifications from the undertakings involved in the Proposed Transaction.

⁷ The “appropriate date” is the date from which the time limits for making Phase 1 or Phase 2 determinations begin to run.



Market Enquiries

21. During its investigation, the Commission conducted market enquiries which included issuing questionnaires to various parties active in the private healthcare services sector (including private hospitals and private health insurers) and engaging with government agencies such as the Health Service Executive (“HSE”). The Commission also engaged with the United Kingdom’s Competition and Markets Authority and the Netherlands Authority for Consumers and Markets in respect of their experience in the private healthcare sector.
22. The Commission received full responses from the majority of the parties it contacted and undertook a series of follow-up phone calls with the respondents.
23. During the Commission’s market enquiries, a potential competition concern was raised that following the implementation of the Proposed Transaction and the Hermitage Acquisition, the Portlon Trust could be in a position to negotiate its contracts with private health insurers on a bundled hospital basis which could potentially lead to higher overall reimbursement rates and affect consumers’ health insurance premiums⁸. This potential competition concern is considered further in the competitive analysis of the Proposed Transaction below.

Third Party Submissions

24. No third party submission was received.

Competitive Analysis

Horizontal Overlap

25. There is a horizontal overlap between the parties’ activities in the provision of private healthcare services in the State. Both the Portlon Trust and BHL directly or indirectly

⁸ According to an ex-post analysis of private hospital mergers conducted by the Netherlands Authority for Consumers and Markets, there was an increase in prices paid by private health insurers to merged hospitals when compared to the prices of healthcare services provided by non-merged hospitals. (See: [Report on Price and volume effects of hospital mergers, investigation into effects of hospital mergers 2007-2014, published by the Netherlands Authority for Consumers and Markets, 8 December 2017.](#))



manage and operate private clinics in the State, i.e., the Galway Clinic and the Blackrock Clinic respectively.

26. The Commission considered the competitive effects of the Proposed Transaction by taking into account that the Portlon Trust may acquire sole control of HCL following the implementation of the Hermitage Acquisition.

Market Definition

Product Market Definition

27. In previous determinations, the Commission did not come to a definitive view on the precise relevant product market in respect of the provision of private healthcare services. In its determination in *M/16/055 – UPMC & Bon Secours / Druid Stone JV*,⁹ the Commission made reference to a potential market for the provision of radiotherapy services. In its determination in *M/19/042 – Portlon (Parma)/Galway Clinic*,¹⁰ the Commission made reference to a potential market for the provision of private healthcare services and also considered whether the relevant product market could be defined more narrowly by defining separate potential markets for the provision of individual speciality healthcare services. In both cases, it was not necessary for the Commission to come to a definitive view on the relevant product market.
28. In relation to product market definition, the parties' Economist Report¹¹ provided that *"the basic product is private healthcare services (covering inpatient, day-patient and outpatient) and the major providers include private hospitals, public hospitals and private healthcare clinics."*
29. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission does not need to come to a definitive view on the precise relevant product market in this instance since its conclusion on the

⁹ Determination *M/16/055 – UPMC & Bon Secours / Druid Stone JV*, available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-16-055-Determination-UPMC-Bon-Secours-JV.pdf>.

¹⁰ Determination *M/19/042 – Portlon (Parma)/Galway Clinic*, available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2019/12/M-19-042-Portlon-Parma-Galway-Clinic-public-determination.pdf>.

¹¹ The parties submitted as part of the notification a report entitled "Parma's Proposed Acquisition(s) of Galway, Blackrock and Hermitage: An Economics of Competition Policy report" prepared by Professor Francis O'Toole dated 19 March 2020 (the "Economist Report").



likely competitive impact of the Proposed Transaction will be unaffected whether the precise relevant product market is defined narrowly (e.g. separate potential markets for the provision of each speciality healthcare service) or more broadly (e.g. to encompass the provision of private healthcare services).

30. For the purposes of this determination, however, the Commission has followed the approach it took in its determination in *M/19/042 – Portlon (Parma)/Galway Clinic*¹² and assessed the likely competitive impact of the Proposed Transaction in both broad and narrow potential markets, namely: (i) the provision of private healthcare services;¹³ and (ii) the provision of individual speciality healthcare services.

Geographic Market Definition

31. In its previous determination in *M/19/042 – Portlon (Parma)/Galway Clinic*¹⁴, the Commission examined the competitive impact of the relevant transaction by reference to potential regional and national geographic markets. The Commission does not need to come to a definitive view on the precise relevant geographic market in this instance, since its conclusion on the competitive impact of the Proposed Transaction will be unaffected whether the relevant geographic market is defined as regional or national. Accordingly, for the purpose of its competitive assessment of the Proposed Transaction, the Commission has followed the approach taken in its determination in *M/19/042 – Portlon (Parma)/Galway Clinic* with respect to the potential geographic market.
32. Each of the Hermitage Clinic, the Galway Clinic and the Blackrock Clinic (the “Merging Clinics”)¹⁵ provides private healthcare services to patients in the State. The majority of the turnover of each of the Merging Clinics is generated in the State.
33. The parties’ Economist Report¹⁶ provided “*if the CCPC decide to view the market on a regional geographic basis, the author notes that the only geographic overlap in the*

¹² See footnote 10.

¹³ Note, the Commission does not need to take a definitive view on whether the provision of private healthcare services includes private provision in public hospitals and sports clinics for the purposes of this determination see paragraph 39 below.

¹⁴ See footnote 10.

¹⁵ As noted at paragraphs 12 and 26 above, the Commission has taken into account that the Portlon Trust may acquire sole control of HCL following implementation of the Hermitage Acquisition.

¹⁶ See footnote 11.



Parties' activities would arise in the Dublin/Leinster region, since Galway would be regarded as being actively only in the West/North region and it seems most unlikely that the reach of Hermitage would extend in any significant manner into the West/North region."

34. Information provided by the parties in response to the RFI served to Portlón/Parma in respect of *M/19/042-Portlón (Parma)/Galway Clinic*¹⁷ indicates that [...]% of the Galway Clinic's patients come from the West Region¹⁸ and over [...]% of the Hermitage Clinic's patients come from the Dublin/Leinster Region.¹⁹ Information provided by the parties in response to the RFI served on BHL in respect of *M/20/010-Portlón (Parma)/Blackrock*, indicates that [...]% of the Blackrock Clinic's patients come from the Dublin/Leinster Region. As such, the Commission considers that there is a minimal potential overlap between the patients served by: (i) the Galway Clinic and the Hermitage Clinic; and (ii) the Galway Clinic and the Blackrock Clinic. Accordingly, the Commission does not consider it appropriate to examine the potential effects of the Proposed Transaction in the markets identified in paragraph 30 in the West Region.
35. Furthermore, patients may be required to travel a longer distance to avail of appropriate speciality treatment, as not all hospitals offer all complex procedures. Therefore, with regard to the potential geographic market for the provision of private speciality healthcare services, the Commission understands that the more complex the treatment and/or procedure, the wider the geographic area from which a hospital is likely to draw patients. Information provided by the parties is consistent with this view. In addition, a patient's choice of private hospital in respect of a speciality healthcare service is strongly influenced by the decision taken by a patient's GP to refer the patient to a particular consultant. However, consistent with the approach taken in its determination in *M/19/042 – Portlón (Parma)/Galway Clinic*²⁰ which did not come to a definitive view in respect of the geographic market for the provision of private speciality healthcare services, the Commission has analysed the competitive effects of the

¹⁷ See footnote 10.

¹⁸ The West Region comprises the territory of Galway City, the regional capital, as well as the counties of Galway, Mayo and Roscommon.

¹⁹ The Dublin/Leinster Region comprises the counties of Carlow, Dublin, Kildare, Kilkenny, Laois, Longford, Louth, Meath, Offaly, Westmeath, Wexford and Wicklow.

²⁰ See footnote 10.



Proposed Transaction in the provision of private speciality healthcare services in: (i) the State; and (ii) the Dublin/Leinster Region.

36. Accordingly, for the purposes of its review of the competitive effects of the Proposed Transaction, the Commission has examined the Proposed Transaction by reference to the potential markets identified in paragraph 30 above in each of: (i) the State; and (ii) the Dublin/Leinster Region.

The Provision of Private Healthcare Services

Private Healthcare Services in the State

37. Paragraph 3.1 of the Commission's Merger Guidelines²¹ states that "*A central element in assessing the competitive impact of a merger is identifying its effect on market structure.*" Market structure can be characterised by the number, size and distribution of firms in a market. A merger or acquisition will have an impact on market structure as the merging parties which were two firms pre-acquisition become one firm post-acquisition.
38. Table 3 below shows that the Merging Clinics' combined estimated share of revenue generated from the provision of private healthcare services in the State was approximately [20-30]% in 2019, if private healthcare services provided by public hospitals are taken into account. This figure rises to [20-30]% if private healthcare services provided by public hospitals are excluded.
39. The Commission does not need to take a definitive view on whether the provision of private healthcare services includes private provision in public hospitals or not, for the purposes of this determination, on the basis that, regardless of whether the provision of private healthcare services includes private provision in public hospitals or not, the Merging Clinics' combined estimated market shares is below [20-30]% in the State.

Table 3: Private Health Services Providers' Estimated Market Share by revenue in the State in 2019

²¹ Guidelines for Merger Analysis, adopted by the Commission on 31 October 2014 (the "Commission's Merger Guidelines").



| Private Healthcare Provider | Estimated Market Share (including private provision in Public hospitals) | Estimated Market Share (Excluding private provision in Public hospitals) |
|-------------------------------------|---|---|
| Bon Secours Health System | [10-20]% | [20-30]% |
| Mater Private Group | [10-20]% | [10-20]% |
| St. Vincent's Private Hospital | [0-10]% | [10-20]% |
| Beacon Hospital | [0-10]% | [0-10]% |
| Blackrock Clinic | [0-10]% | [0-10]% |
| Galway Clinic | [0-10]% | [0-10]% |
| Hermitage Clinic | [0-10]% | [0-10]% |
| Sports Surgery | [0-5]% | [0-5]% |
| Other private hospitals/clinics | [0-10]% | [10-20]% |
| Total | 100.0% | 100.0% |
| Merging Clinics Combined | [10-20]% | [20-30]% |
| Pre-merger HHI²² | 945 | 1448 |
| Post-merger HHI²³ | 1143 | 1747 |
| Change in HHIs | 172 | 427 |

Source: based on information provided by the parties

40. Market concentration refers to the degree to which production/supply in a particular market is concentrated in the hands of a few large firms. The most commonly used measure of concentration is the Herfindahl-Hirschman Index (“HHI”), which is defined as the sum of the squares of the market shares of all firms participating in the market. According to the Commission’s Merger Guidelines²⁴, any market with a post-merger HHI greater than 1,000 may be regarded as concentrated and any market with a post-merger HHI greater than 2,000 may be regarded as highly concentrated. In a concentrated market, a change in the pre-merger HHI compared to the post-merger HHI of less than 250 is “*unlikely to cause concern*”. In a highly concentrated market, a change in the pre-merger HHI compared to the post-merger HHI of less than 150 is “*unlikely to cause concern*”. Therefore, if the post-merger HHI is above 2,000 and the change in the HHI is greater than 150, this indicates that firms in that market may be able to exercise market power.
41. Based on the market share estimates set out in Table 3 above, the Commission is of the view that, when the provision of private healthcare services in public hospitals is

²² Pre the Proposed Transaction and the Hermitage Acquisition.

²³ Post the Proposed Transaction and the Hermitage Acquisition.

²⁴ Commission’s Merger Guidelines, paragraph 3.10.



included, the market for the provision of private healthcare services in the State is not concentrated with a pre-transaction HHI of just over 700. Following implementation of the Proposed Transaction and the Hermitage Acquisition, the HHI would remain below 900 and the change in the HHI would be less than 200. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction was unlikely to raise competition concerns on this basis.

42. However, if the provision of private healthcare services in public hospitals is excluded, the pre-transaction HHI is just below 1400 which suggests that the market is concentrated. In addition, following implementation of the Proposed Transaction and the Hermitage Acquisition, the HHI would increase to 1750 and the change in the HHI would be more than 250. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction, in combination with the Hermitage Acquisition, could raise competition concerns and an intensification of the analysis of the likely impact of the Proposed Transaction was required.
43. However, the Commission's analysis found that, even on the basis of a market for the provision of private healthcare services which excludes the provision of private healthcare services in public hospitals, there are a number of competitors of the Merging Clinics, offering a range of private healthcare services, which have a strong incentive to compete with the Merging Clinics. Such competitors include Bon Secours Health System, Mater Private Group, St. Vincent's Private Hospital and the Beacon Hospital.
44. The Commission considers that these competing private hospitals currently exert a competitive constraint on the Merging Clinics in respect of the provision of private healthcare services in the State. In particular, Mater Private Group and Bon Secours Health System are private hospital groups which operate at a national level. As set out in Table 3 above, in 2019, the shares of revenue generated by these private hospital groups in the State were of a similar level to the combined share of the Merging Clinics (Mater Private Group at [10-20]% and Bon Secours Health System at [10-20]%). The Commission considers that these individual private hospitals and private hospital groups would continue to exert a competitive constraint on the Merging Clinics



following the implementation of the Proposed Transaction and the Hermitage Acquisition.

45. Furthermore, the Commission's market enquiries indicated that the private healthcare sector in the State is not running at full capacity in respect to bed occupancy and operating theatre utilisation.²⁵ There appears to be some evidence that competitors of the Merging Clinics have an element of spare capacity and, they have the ability to continue to exert a competitive constraint on the Merging Clinics in the provision of private healthcare services in the State following the implementation of the Proposed Transaction and the Hermitage Acquisition.²⁶
46. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in relation to the provision of private healthcare services in the State.

Impact on the Merging Clinics' negotiating position with private health insurers

47. As set out in paragraph 23 above, during the Commission's market enquiries, a concern was raised in relation to the potential impact of the Proposed Transaction and the Hermitage Acquisition on the Merging Clinics' negotiation position with private health insurers. Therefore, the Commission has examined whether following implementation of the Proposed Transaction and the Hermitage Acquisition, the Merging Clinics' ability to negotiate on a collective basis with private health insurers could result in an increase to reimbursement rates for the Galway Clinic and the Hermitage Clinic with such increases being passed on to consumers in the form of higher private health insurance premiums.

²⁵ [...]. Information provided by the parties suggested that the Galway Clinic, Blackrock Clinic and Hermitage Clinic's bed occupancies are between [...] % and theatre utilisation is around [...].

²⁶ As part of its competitive assessment, the Commission has taken into account the fact that, although some private hospitals need to reduce bed capacity slightly to comply with the HSE's current COVID-19 social distancing guidelines, most private hospitals' total capacity has largely remained unchanged. In this regard, the parties have indicated to the Commission that any reductions in bed capacity that have been required to comply with social distancing guidelines have not exceeded [...] % of the total bed capacity. As of the date of this determination, theatre activity at the private hospitals has resumed and is expected to remain largely unaffected by the HSE's social distancing guidelines.



48. In the State, the cost of over 90% of all private healthcare services are covered by patients' private health insurance, with three private health insurers (VHI, Laya and Irish Life) providing around 90% of cover.
49. The Commission understands that reimbursement rates are currently negotiated between private health insurers and individual private hospitals on a procedure-by-procedure basis. Most routine procedures carry a fixed reimbursement rate, which covers, for example, technical input, nursing, the majority of medication and a fixed number of nights' stay. Most of the main providers of private healthcare services in the State provide a full range of routine procedures. Routine procedures represent the vast majority of procedures reimbursed under private health insurance in the State.
50. Private health insurers differentiate between different categories of private hospital depending on the complexity of the services offered by the individual hospital. This differentiation is reflected in the levels of private health insurance purchased by consumers. For example, a consumer may pay a higher premium in order to access the full range of private hospitals available, including those hospitals which offer the most complex care.
51. The Commission understands that the Blackrock Clinic, Mater Private Dublin and the Beacon Hospital are considered as high tech private hospitals which have the ability to provide a range of high-intensity, complex procedures which other private hospitals do not provide. In general, procedures performed in these hospitals command the highest reimbursement rates. The Hermitage Clinic and the Galway Clinic are categorised alongside the Mater Private Cork and Bon Secours hospitals and these hospitals generally command a lower reimbursement rate.
52. Information provided by the parties indicated that "[...]"
53. The Commission considers that: (i) the Merging Clinics' combined market share at a national level is not sufficient for a collective negotiation to be successful in raising the prices charged to insurers. Negotiations between private health insurers and private hospitals take account of a number of factors including, for example, market rates across each of its private hospital contracts, inflation, location of the hospital, patient profile, proportion of high intensity procedures, any hospital specific accreditations or



certifications, and national pay awards; and (ii) given the availability of excess capacity and range of competitors in the provision of private healthcare in the State, the Commission does not consider that an attempt to increase reimbursement rates is likely to be successful.

54. Furthermore, the Commission understands from its market enquiries that for certain private hospital groups operating in the State, private health insurers can and do negotiate separate agreements with different categories of private hospital within the same parent hospital group. This indicates that the main private health insurers currently have a certain level of negotiating power in their negotiations with private hospital groups.
55. In light of the above, the Commission considers that the Proposed Transaction (and the Hermitage Acquisition) are unlikely to raise any horizontal competition concerns in respect of the ability of the Portlón Trust's ability to unilaterally increase insurance reimbursement rates in respect of the provision of private healthcare services in the Dublin/Leinster Region and in the State.

Provision of private Healthcare Services in the Dublin/Leinster Region

56. Following the implementation of the Proposed Transaction and the Hermitage Acquisition, the Portlón Trust would exercise sole control over both the Hermitage Clinic and the Blackrock Clinic which are both located in the Dublin/Leinster Region. Accordingly, the Commission has assessed the competitive effects of the Proposed Transaction on the provision of private healthcare services in the Dublin/Leinster Region, with the assumption that the Portlón Trust will also acquire sole control of the Hermitage Clinic pursuant to the Hermitage Acquisition.
57. Table 4 below shows that the Blackrock Clinic and Hermitage Clinic combined estimated share by revenue generated from the provision of private healthcare services in the Dublin/Leinster Region was approximately [20-30]% in 2019, if private healthcare services provided by public hospitals are taken into account. This figure rises to [20-30]% if private healthcare services provided by public hospitals are excluded.

Table 4: Private Health Services Providers' Estimated Market Share by revenue in Dublin/Leinster in 2019



| Private Healthcare Provider | Estimated Market Share (Including private provision in public hospitals) | Estimated Market Share (Excluding private provision in public hospitals) |
|---|--|--|
| Bon Secours (Glasnevin) | [0-10]% | [0-10]% |
| Mater Private Group | [10-20]% | [10-20]% |
| St. Vincent's Private Hospital | [10-20]% | [10-20]% |
| Beacon Hospital | [10-20]% | [10-20]% |
| Blackrock Clinic | [10-20]% | [10-20]% |
| Hermitage Clinic | [0-10]% | [0-10]% |
| Sports Surgery | [0-5]% | [0-10]% |
| Other Private Hospitals/Clinics | [0-10]% | [0-10]% |
| Total | 100.0% | 100.0% |
| Blackrock Clinic and Hermitage Clinic Combined | [20-30]% | [20-30]% |
| Pre-merger HHI²⁷ | 711 | 1299 |
| Post-merger HHI²⁸ | 883 | 1726 |
| Change in HHIs | 198 | 299 |
| Source: Based on information provided by parties | | |

58. Based on the market share estimates set out in Table 4 above, the Commission is of the view that, where the provision of private healthcare services in public hospitals is included, the market for the provision of private healthcare services in the Dublin/Leinster Region is not concentrated with a pre-transaction HHI of below 1000. Following implementation of the Proposed Transaction and the Hermitage Acquisition, the HHI would increase to just over 1100 but the change in the HHI would be less than 250. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction was unlikely to raise competition concerns.
59. However, if the provision of private healthcare services in public hospitals is excluded, the pre-transaction HHI is just over 1400 which suggests that the market is concentrated on this basis. In addition, following implementation of the Proposed Transaction and the Hermitage Acquisition, the HHI would increase to just below 1800 and the change in the HHI would be more than 250. Pursuant to the Commission's Merger Guidelines, such HHI levels indicated that the Proposed Transaction, in combination with the Hermitage Acquisition, could raise competition concerns and an intensification of the

²⁷ Pre the Proposed Transaction and the Hermitage Acquisition.

²⁸ Post the Proposed Transaction and the Hermitage Acquisition.



analysis of the likely impact of the Proposed Transaction in the Dublin/Leinster Region was required.

60. However, the Commission's analysis found that, even on the basis of a market for the provision of private healthcare services which excludes the provision of private healthcare services in public hospitals, there are a number of competitors operating in the Dublin/Leinster Region which have a strong incentive to continue to compete with the Hermitage Clinic and the Blackrock Clinic. Such competitors, which offer a range of private healthcare services similar to the Blackrock Clinic and Hermitage Clinic, include Bon Secours (Glasnevin), Mater Private Group, St. Vincent's Private Hospital and the Beacon Hospital. These private hospitals generated revenue shares in the Dublin/Leinster Region, which were comparable to the Hermitage Clinic and Blackrock Clinic's combined share (Mater Private Group at [10-20]%, St Vincent's Private Hospital at [10-20]%, the Beacon Hospital at [10-20]% and Bon Secours (Glasnevin) at [0-10]%). The Commission considers that these private healthcare providers will continue to exert a competitive constraint on the Hermitage Clinic and the Blackrock Clinic following the implementation of the Proposed Transaction and the Hermitage Acquisition in the Dublin/Leinster Region.
61. Therefore, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of the provision of private healthcare services in the Dublin/Leinster Region.

The Provision of Private Speciality Healthcare Services

Private Speciality Healthcare Services in the State

62. The Merging Clinics provide a broad range of other speciality healthcare services, such as, cardiology, general surgery, oncology, radiology, surgical urology, rheumatology/GI infusions, medical and surgical endoscopy, and radiotherapy services. This broad range of services indicates that while each clinic may have a focus on one or more speciality



healthcare service, generally speaking, the activities of the Merging Clinics are not highly specialised in one area of speciality healthcare.

63. Tables 5 and 6 below provide the Merging Clinics' top five speciality healthcare services according to their estimated combined market shares in the State in 2018²⁹ including and excluding private provision in public hospitals respectively.

| Table 5: The Merging Clinics' top five specialities³⁰ by estimated combined market shares in the State in 2018 (including private provision in public hospitals) | | | | |
|--|--|-----------------------------|--------------------------|-----------------|
| Specialty Services | Market shares in the State³¹ | | | |
| | The Hermitage Clinic | The Blackrock Clinic | The Galway Clinic | Combined |
| Cardiothoracic Procedures ³² | 0% | [20-30] | [0-10]% | [30-35]% |
| Cardiology ³³ | [0-10] | [0-10]% | [10-20]% | [20-30]% |
| General endoscopy procedures ³⁴ | [0-10]% | [0-10]% | [0-10]% | [20-30]% |
| Neuro/Spinal ³⁵ | [20-30]% | [0-10]% | [0-5]% | [20-30]% |
| Orthopaedic ³⁶ | [0-10]% | [0-10]% | [0-10]% | [15-25]% |

Source: the parties' best estimates

²⁹ The parties provide that only "guesstimates" from 2018 are feasible primarily because the "bottom up" methodology for estimating the total segment size heavily relies on the internal "guesstimates" for competitors in respect of that year and it is not possible to provide "guesstimates" for such competitors for multiple years.

³⁰ The provision of general emergency procedures ("ER") accounts for almost [...] of Galway Clinic's 2019 revenues. However, Blackrock Clinic does not categorise ER as one of its specialities. The Commission considers that as significant proportion of admissions to ER are unplanned, it is not appropriate to consider ER as a speciality for the purpose of this determination.

³¹ These estimates are provided by the parties on a best efforts basis in respect of 2018.

³² The estimated market share in respect of cardiac surgery is calculated based on the number of coronary artery bypass graftings in 2018.

³³ The estimated market share in respect of cardiology is calculated based on the number of angiograms/angioplasties in 2018.

³⁴ The estimated market share in respect of endoscopy procedures is calculated based on the number of endoscopy procedures in 2018.

³⁵ The estimated market share in respect of neurosurgery/spinal procedure is calculated based on the number of hip procedures in 2018.

³⁶ The estimated market share in respect of Orthopaedic is calculated based on the number of hip / knee replacements in 2018.



| Table 6: The Merging Clinics' top five specialities by estimated combined market shares in the State in 2018 (excluding private provision in public hospitals) | | | | |
|---|--|-----------------------------|--------------------------|-----------------|
| Specialty Services | Market shares in the State³⁷ | | | |
| | The Hermitage Clinic | The Blackrock Clinic | The Galway Clinic | Combined |
| Cardiothoracic Procedures | 0% | [30-40]% | [0-10]% | [40-50]% |
| Cardiology | [0-10]% | [10-20]% | [10-20]% | [30-40]% |
| General endoscopy procedures | [10-20]% | [10-20]% | [10-20]% | [35-45]% |
| Neuro/Spinal | [20-30]% | [0-10]% | [0-5]% | [25-35]% |
| Orthopaedic | [0-10]%% | [0-10]% | [0-10] | [20-30]% |

Source: the parties' best estimates

64. Tables 5 and 6 indicate that the top five speciality healthcare services of the Merging Clinics by estimated combined market shares are: cardiothoracic procedures, cardiology, general endoscopy procedures, neuro/spinal procedures and orthopaedics. For the top five speciality healthcare services, each of the Merging Clinics' estimated market shares varies, for example, the Galway Clinic and the Hermitage Clinic's share in respect of neuro/spinal varies from [0-5]% to [20-30]% respectively, excluding private provision in public hospitals, and from [0-5]% to [10-20]% respectively if private provision in public hospitals is included. This demonstrates that the Galway Clinic is unlikely to compete closely with the Hermitage Clinic in respect of neuro/spinal services.
65. As demonstrated by Tables 5 and 6, the estimated combined market shares of the Merging Clinics in respect of their top five speciality healthcare services are above 30% in respect of the private provision of: (i) neuro/spinal procedures ([25-35]% excluding private neuro/spinal services provided by public hospitals); (ii) cardiology ([25-35]% excluding private cardiology service provided by public hospitals); (iii) cardiothoracic procedures ([25-35]% including private cardiothoracic procedures provided by public hospitals in the State and [35-45]% excluding private cardiothoracic procedures provided by public hospitals in the State); and (iv) general endoscopy procedures ([35-45]% excluding private endoscopy procedures provided by public hospitals in the State).

³⁷ As above, these estimates are provided by the parties on a best efforts basis in respect of 2018.



The Merging Clinics' activities in the State in respect of these four speciality healthcare services are discussed further in paragraphs 67 to 80 below.

66. The Commission has also examined the Merging Clinics' activities in the State in respect of the remaining speciality healthcare service set out in Tables 5 and 6 above, namely orthopaedic care. The Commission has found that in of respect this speciality healthcare service, there are a number of competitors which will continue to exert a competitive constraint on the Merging Clinics following the implementation of the Proposed Transaction and the Hermitage Acquisition. Therefore, the Commission does not set out a detailed analysis of the Merging Clinics' activities in the State in respect of this speciality healthcare service.

*Cardiothoracic Procedures*³⁸

67. As set out in Tables 5 and 6 above, the combined estimated market share of the Merging Clinics in respect of private cardiothoracic procedures in the State was approximately [25-35]% in 2018 if private healthcare services provided by public hospitals in the State are taken into account. This figure rises to [35-45]% if private healthcare services provided by public hospitals in the State are excluded.
68. Both the Galway Clinic and the Blackrock Clinic provide private cardiothoracic procedures but the Hermitage Clinic does not. The Blackrock Clinic's estimated share in respect of cardiothoracic procedures in the State was [20-30]% for 2018, while the Galway Clinic's estimated share was [0-10]%.
69. Information provided by the parties indicates that there are a limited number of private hospitals providing private cardiothoracic procedures to patients, including the Mater Private Group (with an estimated market share of around [30-40]%), the Beacon Hospital (with an estimated share of around [10-20]%) and St. Vincent's Private Hospital (with an estimated share of around [10-20]%). Each of these private hospitals is located in the Dublin/Leinster Region and are considered to be closer competitors to the Blackrock Clinic in respect of private cardiothoracic procedures/ than the Galway Clinic which is located in the West Region.

³⁸ Cardiothoracic surgery involves the surgical treatment of diseases affecting organs inside the thorax-generally conditions of the heart and lungs.



70. Information provided by the parties suggested that around [20-30]% of private cardiothoracic procedures are provided by public hospitals, therefore, private provision in public hospitals places a more important competitive constraint on the cardiothoracic procedures offered by private clinics/hospitals than on other specialities in the State, as the majority of private hospitals do not offer highly complex cardiothoracic procedures. Therefore, the Commission considered the inclusion of private provision in public hospitals in the estimated combined market share of the Merging Clinics most relevant in respect of private cardiothoracic procedures/cardiac procedures.
71. In light of the above, the Commission considers that private hospitals such as, Mater Private Group, Beacon Hospital, St. Vincent's Private Hospital, and private provision in public hospitals such as Beaumont Hospital, the Mater Public Dublin, St. James's Hospital, St. Vincent's Public will continue to exert a competitive constraint on the Merging Clinics in respect of private cardiothoracic procedures following the implementation of the Proposed Transaction and the Hermitage Acquisition.

*Cardiology*³⁹

72. Based on information provided by the parties, the combined estimated market share of the Merging Clinics in respect of private cardiology services in the State was approximately [20-30]% in 2018 if private healthcare services provided by public hospitals in the State are taken into account. This figure rises to [25-35]% if private healthcare services provided by public hospitals in the State are excluded.
73. Information provided by the parties indicated that there are a number of private hospitals providing private cardiology services to patients in the State, such as, Mater Private Group (with an estimated share of around [20-30]%), Bon Secours Group Health System (with an estimated share of around [10-20]%), the Beacon Hospital (with an estimated share of around [0-10]%), St. Vincent's Private Hospital (with an estimated share of around [0-10]%)⁴⁰. The Commission considers that these competitors will continue to exert a competitive constraint on the Merging Clinics in respect of private

³⁹Cardiology care involves a number of procedures, including cardiac catheterisation, coronary angioplasty.

⁴⁰When private healthcare services provided by public hospitals are taken into account. The estimated market shares for the Mater Private Group, Bon Secours Group Health System, the Beacon Hospital, and St. Vincent's Private Hospital are [20-30]%, [10-20]%, [10-20]% and [10-20]% respectively in respect of private cardiology services, when excluding private provision in public hospitals.



cardiology services following the implementation of the Proposed Transaction and the Hermitage Acquisition.

General endoscopy procedures

74. The combined estimated market share of the Merging Clinics in respect of private endoscopy procedures in the State was approximately [20-30]% in 2018 if private healthcare services provided by public hospitals are taken into account. This figure rises to [35-45]% if private healthcare services provided by public hospitals are excluded.
75. Information provided by the parties indicated that there are a number of private hospitals providing private endoscopy procedures to patients, such as, Bon Secours Group Health System (with an estimated share of around [20-30]% excluding private provision in public hospitals), Mater Private Group (with an estimated share of around [5-15]% excluding private provision in public hospitals), the Beacon Hospital (with an estimated share of around [0-10]% excluding private provision in public hospitals), St. Vincent's Private Hospital (with an estimated share of around [0-10]% excluding private provision in public hospitals) in the State. The Commission considers that these competitors will continue to exert a competitive constraint on the Merging Clinics in respect of private endoscopy procedures services following the implementation of the Proposed Transaction and the Hermitage Acquisition. In addition, almost all public hospitals provide private endoscopy procedures in the State. Information provided by the parties suggested that around [40-50]% of the private endoscopy procedures are provided by public hospitals. These public hospitals will continue to exert a competitive constraint on the Merging Clinics in respect of private endoscopy procedures.

Neuro/Spinal Procedures⁴¹

76. The combined estimated market share of the Merging Clinics in respect of private neuro/spinal procedures in the State was approximately [20-30]% in 2018 if private healthcare services provided by public hospitals in the State are taken into account. This

⁴¹ Neuro/Spinal procedures are primarily offered within the broader specialty category of spinal care. Spinal surgeries represent a significant proportion of spinal care and primarily consist of micro-discectomy, laminectomy, disc decompression and spinal fusion. Most of the Hermitage Clinic's [...].



figure rises to [25-35]% if private healthcare services provided by public hospitals are excluded. .

77. The Hermitage Clinic and the Blackrock Clinic's estimated market shares in respect of private Neuro/Spinal procedures in the State are estimated at [10-20]% and [0-10]% respectively, when including private provision in public hospitals and [20-30]% and [0-10]% respectively, if excluding private provision in public hospitals for 2018. These shares indicate that for neuro/spinal procedures, the Hermitage Clinic is unlikely to compete closely with the Blackrock Clinic or the Galway Clinic.
78. Furthermore, information provided to the Commission by the parties indicates that there are a number of private hospitals providing private neuro/spinal procedures to patients in the State. These hospitals include Mater Private Group (with an estimated share of around [10-20]%), Bon Secours Group Health System (with an estimated share of around [5-15]%), Beacon Hospital (with an estimated share of around [0-10]%), St. Vincent's Private Hospital (with an estimated share of around [0-10]%), and Sports Surgery Santry.⁴²
79. The Commission considers that Mater Private Group, Bon Secours Group Health System, the Beacon Hospital, St. Vincent's Private Hospital, and Sports Surgery Santry would continue to exert a competitive constraint on the Merging Clinics in respect of private neuro/spinal services following the implementation of the Proposed Transaction and the Hermitage Acquisition.
80. In addition, the Commission understands that public hospitals may also exercise a constraint on private healthcare providers in the provision of complex neuro/spinal procedures. Beaumont Hospital in Dublin carries out the most complex neuro/spinal procedures in the State. These services will continue to be available to all patients following the implementation of the Proposed Transaction and the Hermitage Acquisition.

⁴² When private healthcare services provided by public hospitals are taken into account. The estimated market shares for the Mater Private Group, Bon Secours Group Health System, the Beacon Hospital, and St. Vincent's Private Hospital are [20-30]%, [10-20]%, [10-20]%, and [0-10]% respectively when excluding private provision in public hospitals.



81. Therefore, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of any of the private speciality healthcare services offered by the Merging Clinics in the State.

Private Speciality Healthcare Services in the Dublin/Leinster Region

82. Tables 7 and 8 below provide the Merging Clinics' top five speciality healthcare services according to their estimated combined market shares in the Dublin/Leinster Region in 2018 including and excluding private provision in public hospitals, respectively. As indicated in paragraph 68, the Hermitage Clinic does not provide cardiothoracic procedures therefore, if the geographic market is the Dublin/Leinster Region, there is no horizontal overlap in the Dublin/Leinster Region in respect of the private provision of cardiothoracic procedures.



| Table 7: The Blackrock Clinic and the Hermitage Clinic's top five specialities⁴³ by estimated combined market shares in the State in 2018 (including private provision in public hospitals) | | | |
|---|--|-----------------------------|-----------------|
| Specialty Services | Market shares in the State⁴⁴ | | |
| | The Hermitage Clinic | The Blackrock Clinic | Combined |
| Cardiology | [10-20]% | [0-10]% | [20-30]% |
| General endoscopy procedures | [10-20]% | [10-20]% | [20-30]% |
| Neuro/Spinal | [0-10]% | [20-30]% | [20-30]% |
| Orthopaedic | [10-20]% | [10-20]% | [20-30]% |
| General Medicine | [0-10]% | [0-10]% | [10-20]% |

Source: the parties' best estimates

| Table 8: The Blackrock Clinic and the Hermitage Clinic's top five specialities by estimated combined market shares in the State in 2018 (excluding private provision in public hospitals) | | | |
|--|--|-----------------------------|-----------------|
| Specialty Services | Market shares in the State⁴⁵ | | |
| | The Hermitage Clinic | The Blackrock Clinic | Combined |
| Cardiology | [10-20]% | [0-10]% | [20-30]% |
| General endoscopy procedures | [20-30]% | [10-20]% | [35-45]% |
| Neuro/Spinal | [0-10]% | [20-30]% | [35-45]% |
| Orthopaedic | [10-20]% | [10-20]% | [20-30]% |
| General Medicine | [10-20]% | [15-25]% | [25-35]% |

Source: the parties' best estimates

83. As demonstrated by Tables 7 and 8, the estimated combined market shares of the Blackrock Clinic and the Hermitage Clinic in respect of their top five speciality healthcare services are below 30% in the Dublin/Leinster Region, if private healthcare services

⁴³ The provision of general emergency procedures ("ER") accounts for almost 19% of Galway Clinic's 2019 revenues. However, Blackrock Clinic does not categorise ER as one of its specialities. The Commission considers that as significant proportion of admissions to ER are unplanned, it is not appropriate to consider ER as a speciality for the purpose of this determination.

⁴⁴ These estimates are provided by the parties on a best efforts basis in respect of 2018.

⁴⁵ These estimates are provided by the parties on a best efforts basis in respect of 2018.



provided by public hospitals in the Dublin/Leinster Region are included. If private healthcare services provided by public hospitals in the Dublin/Leinster Region are excluded then the combined market shares of the Blackrock Clinic and the Hermitage Clinic are above 30% for three specialty healthcare services: (i) neuro/spinal procedures ([30-40]%), (ii) general endoscopy procedures ([35-45]%), and (iii) general medicine ([25-35]%). The Blackrock Clinic and the Hermitage Clinic's activities in the State in respect of these three speciality healthcare services are discussed further in paragraphs 85 to 88 below.

84. The Commission has also examined the Merging Clinics' activities in the Dublin/Leinster Region in respect of the remaining speciality healthcare services set out in Table 8 above, namely orthopaedics and cardiology. The Commission has found that in respect of each of these speciality healthcare services, there are a number of competitors which will continue to exert a competitive constraint on the Blackrock Clinic and the Hermitage Clinic following the implementation of the Proposed Transaction and the Hermitage Acquisition. Therefore, the Commission does not set out a detailed analysis of the Blackrock Clinic and the Hermitage Clinic's activities in the Dublin/Leinster Region in respect of these speciality healthcare services.
85. **Private general endoscopy procedures:** information provided by the parties indicates that there are a number of private hospitals providing private endoscopy procedures to patients in the Dublin/Leinster Region, such as, Bon Secours Glasnevin (with an estimated share of around [10-20]% excluding private services in public hospitals), Mater Private Dublin (with an estimated share of around [10-20]% excluding private services in public hospitals), the Beacon Hospital (with an estimated share of around [10-20]% excluding the private services in the public hospitals), and St. Vincent's Private Hospital (with an estimated share of around [10-20]% excluding private services in public hospitals). The Commission considers that these competitors will continue to exert a competitive constraint on the Hermitage Clinic and Blackrock Clinic in respect of private endoscopy procedures services following the implementation of the Proposed Transaction and the Hermitage Acquisition in the Dublin/Leinster Region. In addition,



almost all public hospitals provide private endoscopy procedures in the Dublin/Leinster Region.

86. **Neuro/spinal procedures:** the combined estimated market shares of the Hermitage Clinic and the Blackrock Clinic in respect of neuro/spinal procedures is just above [30-40]% when excluding private services in public hospitals. Beaumont Hospital in Dublin carries out the most complex neuro/spinal procedures. These services will continue to be available to all patients following the implementation of the Proposed Transaction. Following the implementation of the Proposed Transaction and the Hermitage Acquisition, private provision in Beaumont Hospital and the Mater Private in particular will continue to exert a competitive constraint on the Heritage Clinic and Blackrock Clinic in the provision of neuro/spinal services in the Dublin/Leinster Region.
87. As indicated in paragraphs 78 and 79 above, there are a number of competitors (including Bon Secours Glasnevin, Mater Private Dublin, St. Vincent's Private Hospital, Beacon Hospital and Sports Surgery Clinic and the private provision of neuro/spinal services by public hospital) which would continue to exert a competitive constraint on the Hermitage Clinic and the Blackrock Clinic for the provision of private neuro/spinal procedures in the Dublin/Leinster Region following implementation of the Proposed Transaction and the Hermitage Acquisition.
88. **General Medicine:** the combined estimated market shares of the Hermitage Clinic and the Blackrock Clinic in respect of general medicine is just below [25-35]% when excluding the private services in the public hospitals. The vast majority of private hospitals in the Dublin/Leinster Region provide private general surgical procedures services, such as, Bon Secours Glasnevin, Mater Private Dublin, St. Vincent's Private in the State. These services will continue to be available to all patients following the implementation of the Proposed Transaction and the Hermitage Acquisition. Following implementation of the Proposed Transaction and the Hermitage Acquisition, these hospitals will continue to exert a competitive constraint on the Hermitage Clinic and Blackrock Clinic in the provision of general medicine in the Dublin/Leinster Region.
89. Therefore, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of any of the private speciality



healthcare services offered by the Blackrock Clinic and the Hermitage Clinic in the Dublin/Leinster Region

90. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competition concerns in respect of any of the private speciality healthcare services offered by the Blackrock Clinic and the Hermitage Clinic in the Dublin/Leinster Region and the State.

Vertical Relationship

91. The parties stated that there are no active referrals between the Merging Clinics. The Commission has not identified any existing vertical relationship between the parties in the State. On this basis, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

92. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

93. No ancillary restraints were notified.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition, whereby the Portlón Trust, through its subsidiary Parma Investments Limited and its majority-owned subsidiary Breccia Unlimited Company, would acquire the shareholdings of each of Tullycorbett Limited and Xroon Limited in, and thus sole control of Blackrock Hospital Limited, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh
Member
Competition and Consumer Protection Commission